

**REMARKS**

With the entry of this amendment, claims 58-63 are pending and under examination in this application. Claims 1-57 were previously canceled without prejudice or disclaimer. Claims 58, 60 and 61 are amended here.

*Allowance of claims*

Applicants thank the Examiner for indicating that claims 58, 59, 62 and 63 were allowable.

*Examiner Interview*

The Applicants, the Attorney for the assignee, and the undersigned Agent thank the Examiner for the Examiner's time and consideration during the telephone interview of March 11, 2004. The participants in this interview were Examiner Stephen L. Rawlings, Ph.D.; Shane M. Popp, J.D., LL.M., the Attorney for assignee Agensys, Inc.; and the undersigned Agent, Robert Cerpa.

In accordance with MPEP 713.04, the substance of the interview of March 11, 2004 is hereby made of record. No exhibits nor demonstrations were shown or conducted. The claims discussed were claims 58, 60, and 61. No prior art was discussed. The principal proposed amendments of a substantive nature which were discussed are those presented in this amendment. These amendments are: clarifying amendments to claims 60 and 61, as suggested by the Examiner in the Office Action of February 10, 2004 on page 2 in the paragraph numbered 4; change of "whereby" to "wherein" in claim 60; amendments to claims 60 and 61 to alleviate the written description and enablement rejections, as suggested by the Examiner on page 11 of

the Office Action of February 10, 2004 in the second paragraph preceding the conclusion; and an amendment to claims 58, 60 and 61 to clarify that the nucleic acid molecules "wherein T can also be U" have complete substitution of all thymines by uracils. The general concept of the principal arguments were that these amendments would clarify the claimed subject matter. Agreement was reached between the Examiner, the Attorney for the assignee, and the undersigned Agent that these amendments would result in the allowance of claims 60 and 61.

#### *Amendments to the Claims*

The amendments to the claims find support in various locations throughout the specification. The amendments to claim 58, 60, and 61 which clarify that the phrase "T can also be U" means that every T is replaced by U, are supported at (*inter alia*) page 11, line 26 to page 12, line 2 (which refers to RNA; RNA inherently has every thymine replaced by a uracil). The amendments to claims 60 and 61, specifying that the peptides are fragments of SEQ ID NO: 3, are supported at (*inter alia*) page 22, lines 21-23. The amendments to claims 60 and 61 regarding the specific hybridization of the polynucleotide fragments are supported at (*inter alia*) page 12, lines 10-15 and page 15, lines 1-7 and 10-13. The amendments to claims 60 and 61 regarding the peptide's capability of eliciting antibodies are supported at (*inter alia*) page 22, lines 21-26. No new matter has been added by these amendments.

#### *Objections to the Claims*

The Examiner indicated two objections to claims 60 and 61, one regarding the description of the length of the peptides, and the other regarding the use of the phrase "whereby said polypeptide binds to an HLA class I molecule." The Examiner's suggestions for overcoming

those objections have been adopted. Applicants thank the Examiner for suggesting appropriate language.

*Rejections under 35 U.S.C. § 112, first paragraph*

Claims 60 and 61 were rejected under 35 U.S.C. § 112, first paragraph, for various reasons. In the Final Office Action of February 10, 2004, the Examiner indicated that addition of the language "wherein said peptide is capable of eliciting the production of an antibody that binds specifically to the polypeptide of SEQ ID NO: 3 or wherein said polynucleotide fragment is capable of specifically hybridizing to the nucleic acid molecule of SEQ ID NO: 2 or its full complement" would overcome these rejections. The Examiner's suggestion has been adopted and the claims are amended to recite this language. In view of this amendment, withdrawal of the rejections under 35 U.S.C. § 112, first paragraph, is respectfully requested.

**CONCLUSION**

Applicants submit that all issues have been addressed, and that the currently pending claims are in condition for allowance. If the Examiner believes that a telephone conference would be of use in resolving outstanding issues, he is invited to contact the undersigned Agent at the telephone number below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to

Deposit Account No. 03-1952 referencing docket No. 511582002300.

Respectfully submitted,

Dated: March 12, 2004

By: 

Robert K. Cerpa  
Registration No. 39,933

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, CA 94304-1018  
Telephone 650-813-5715  
Facsimile 650-494-0792